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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,090	10/30/2003	Kenneth P. Glynn	IVC-107C, Case 16	1856

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EXAMINER

CHOW, MING

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/699,090

**Applicant(s)**

GLYNN ET AL.

**Examiner**

Ming Chow

**Art Unit**

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**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

### ***Double Patenting***

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-20 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of copending Application No. 10/696,660. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***Claim Objections***

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3. Claim 7 recites "the form". There is insufficient antecedent basis for this limitation in the claim.

### *Drawings*

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "support structure" (claim 1c), "microprocessor" (claim 1e), "user feedback unit" (claim 1i), "bar code reader" (claim 6), "manual control panel" (claim 11), "speech signal recognizer" (claim 14), "speech signal interpreter" (claim 14), "secondary processor" (claim 18) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "item-identification/corresponding" is not clearly defined. Also, the term "same" (line 4 claim 6) is not clearly defined. It is unclear the claimed "same" refers to "programming", or "software", or "bar code reader inputs".

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 4, 5 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The phrase “bar code includes genus data and species data” is not disclosed by the specification. The specification disclosed aisle, row, bin, drawer, and shelf data. However, any of the two data as disclosed do not have the genus and species relationship.

7. Claims 18, 20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The phrase “secondary processor.....to communicate with said microprocessor” is not disclosed by the specification. Nowhere in the specification discloses that a secondary processor performs all claimed limitations (being adapted to receive and translate bar code reader inputs, having software to create item location information, communicate with said microprocessor, and converting item location information into continuous speech recognition digital signals) together.

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8. Claims 17, 19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The phrase "bar code reader connected to secondary processor wirelessly" is not disclosed by the specification. Nowhere in the specification discloses that the bar code is connected to the secondary processor wirelessly.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1, 2, 4, 6-8, 10-12, 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Burke et al (US: 6604681).

For claims 1, 2, 4, 6, 7, 18, Burke et al teach on column 6 line 15 to column 7 line 23, column 9 line 3 to column 11 line 40, an item locator system provides item location information to a user. The item identifiers are entered via a bar code reader or entered via a voice recognition device. The item location information are retrieved from a database and are provided to the user via an LCD display.

Regarding claim 8, Burke et al teach on column 6 line 26-29, audio communication to the user.

Regarding claim 10, Burke et al teach on column 6 line 23, telephone and column 7 line 18, voice recognition. The system of Burke et al must have a microphone.

Regarding claims 11, 12, see Fig. 8 of Burke et al.

Regarding claims 16, 17, 19, see column 6 line 33.



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al as applied to claim 1 above.

Burke et al teach on column 6 line 61-67, location information include location of aisle and shelf.

Burke et al failed to teach row, bin, drawer, and floor space area information. However, "Official Notice" is taken that adding row, bin, drawer, and floor space area information to the system as taught by Burke et al is old and well known to one skilled in the art.

It would have been obvious to one skilled at the time the invention was made to modify Burke et al to have the row, bin, drawer, and floor space area information such that the modified system of Burke et al would be able to support the system users convenience of finding different levels of location information.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al as applied to claim 1 above, and in view of Miura (JP: 356060959).

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Burke et al teach on column 6 line 41-42, ROM.

Burke et al failed to teach ROM storage provides remote diagnostics and system programming. However, Miura teaches ROMs with system programming and for diagnostics.

It would have been obvious to one skilled at the time the invention was made to modify Burke et al to have the ROM storage provides remote diagnostics and system programming as taught by Miura such that the modified system of Burke et al would be able to support the system users convenience of performing diagnostics and system programming on the ROM.

12. Claims 13, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al as applied to claim 1 above, and in view of Suzuki et al (US:2002/0149609).

Burke et al failed to teach digital-to-analog. However, Suzuki et al teach on section [0044], a PDA with a D/A converter.

It would have been obvious to one skilled at the time the invention was made to modify Burke et al to have the digital-to-analog as taught by Suzuki et al such that the modified system of Burke et al would be able to support the system users convenience of getting analog audio output.

13. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al as applied to claim 1 above, and in view of Engellenner et al (US:5786764).

Burke et al failed to teach a speech recognition engine. However, Engellenner et al teach on items 143 Fig. 13 and column 12 line 60 to column 14 line 26, speech processing means

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(claimed “speech signal recognizer”), and item 178 Fig. 13, column 15 line 13-23, “likelihood processor” (claimed “speech signal interpreter”).

It would have been obvious to one skilled at the time the invention was made to modify Burke et al to have the speech recognition engine as taught by Engellenner et al such that the modified system of Burke et al would be able to support the system users convenience of better performing voice recognition by using a speech recognition engine.

14. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al as applied to claim 1 above, in view of Engellenner et al and further in view of Stubley et al (US: 6092045).

Burke et al in view of Engellenner et al as stated in claim 14 above failed to teach utilizing tokens of raw acoustic signals. However, Stubley et al teach column 7 line 26, each word in the vocabulary is represented by a string of HMM model, one for each phoneme in the word.

It would have been obvious to one skilled at the time the invention was made to modify Burke et al in view of Engellenner et al to have utilizing tokens of raw acoustic signals as taught by Stubley et al such that the modified system of Burke et al in view of Engellenner et al would be able to support the system users convenience of using tokens of raw acoustic signals for speech recognition.

### ***Conclusion***

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15. The prior art made of record and not replied upon is considered pertinent to applicant's disclosure.

- Conzola et al (US: 6497367) teach providing a location and item identification data to visually impaired shoppers in a site having barcode labels.

16. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (703) 305-4817. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**


**Washington, D.C. 20231**

**Or faxed to Central FAX Number 703-872-9306.**

Patent Examiner

Art Unit 2645

Ming Chow



**FAN TSANG**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**